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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PENDLETON DIVISION

JEREMY GILLETTE, an individual,

No. 2:24-cv-00948-HL

Plaintiff,

vs.

**DEFENDANTS JAMES C. FERRARIS,
FERRARIS INVESTIGATIONS &
CONSULTING, LLC'S ANSWER AND
AFFIRMATIVE DEFENSES TO
SECOND AMENDED COMPLAINT**

UMATILLA COUNTY FIRE DISTRICT
#1; JAMES C. FERRARIS; FERRARIS
INVESTIGATIONS & CONSULTING,
LLC

Defendants.

Defendants James C. Ferraris and Ferraris Investigations & Consulting, LLC ("Defendants")
answer Plaintiff's Second Amended Complaint as follows:

NATURE OF THE ACTION

1.

No response is necessary to Paragraph 1. To the extent a response is necessary, Defendants
deny it.

PARTIES

2.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the
allegations contained in Paragraph 2, and on that basis deny them.

DEFENDANTS JAMES C. FERRARIS, FERRARIS INVESTIGATIONS &
CONSULTING, LLC'S ANSWER AND AFFIRMATIVE DEFENSES TO
SECOND AMENDED COMPLAINT:
Gillette v. Umatilla County Fire District # 1, et al

3.

In response to Paragraph 3, Defendants admit that Defendant Umatilla County Fire District #1 (“UCFD1”) is a fire district with its main offices located in Hermiston, Oregon. Defendants further admit that UCFD1 provides fire, rescue, and emergency medical services in the district, as well as ambulance services to the cities of Echo and Umatilla. Defendants further admit that UCFD1 employed Plaintiff. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 3, and on that basis deny them.

4.

Defendants admit that they are in the business of conducting investigations. Defendants admit they conducted an investigation concerning Plaintiff. Defendants deny the remaining allegations in Paragraph 4.

JURISDICTION AND VENUE

5.

Defendants admit the court has jurisdiction over Plaintiff’s federal claims.

6.

Defendants lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6, and on that basis deny them.

7.

Defendants admit that this court has personal jurisdiction over Ferraris Investigations & Consulting LLC and that it operates its business in Oregon and conducted activities at issue in this civil action in Umatilla County. Defendants lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 7, and on that basis deny them.

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8.

Defendants admit that this court has personal jurisdiction over James Ferraris. Defendants further admit that they operate a business in Oregon and conducted activities at issue in this civil action in Umatilla County. Defendants lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 8, and on that basis deny them.

9.

Defendants admit that venue is proper in this district.

INTRA-DISTRICT ASSIGNMENT

10.

Defendants admit that this appropriate assignment for this action is the Pendleton Division. Defendants lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 10, and on that basis deny them.

FACTS COMMON TO ALL CAUSES OF ACTION

11.

Defendants admit that Plaintiff was formerly employed by UCFD1, held the position of lieutenant, and was responsible for the supervision of others. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 11, and on that basis deny them.

12.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12, and on that basis deny them.

13.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13, and on that basis deny them.

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14.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14, and on that basis deny them.

15.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15, and on that basis deny them.

16.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16, and on that basis deny them.

17.

Defendants admit that a document titled Umatilla County Fire District #1 Supervisor Performance Appraisal Form was completed related to Plaintiff on February 3, 2021 and February 28, 2022. Defendants further admit that the supervisor's name listed is BC Edward Clark and that the quotes are accurate. Defendants deny the remainder of the allegations in Paragraph 17.

18.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18, and on that basis deny them.

19.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19, and on that basis deny them.

20.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20, and on that basis deny them.

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21.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21, and on that basis deny them.

22.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22, and on that basis deny them.

23.

Defendants admit that Plaintiff was placed on administrative leave. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23, and on that basis deny them.

24.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 24, and on that basis deny them.

25.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25, and on that basis deny them.

26.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 26, and on that basis deny them.

27.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 27, and on that basis deny them.

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28.

Defendants admit that UCFD1 retained Defendants to investigate accusations against Plaintiff. Defendants deny that they “eventually created a biased and false written report dated May 23, 2023 in order to justify Gillette’s termination.” Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in the remainder of Paragraph 28 and on that basis deny them.

29.

Defendants deny Paragraph 29.

30.

Defendants admit that Plaintiff supervised and evaluated a newly hired probationary employee, Makiah Hampton. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 30, and on that basis deny them.

31.

Defendants deny Paragraph 31.

32.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 32, and on that basis deny them.

33.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 33, and on that basis deny them.

34.

Defendants deny Paragraph 34.

35.

Defendants deny Paragraph 35.

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36.

Defendants deny Paragraph 36.

37.

Defendants deny Paragraph 37.

38.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 38, and on that basis deny them.

39.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 39, and on that basis deny them.

40.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 40, and on that basis deny them.

41.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 41, and on that basis deny them.

42.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 42, and on that basis deny them.

43.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 43, and on that basis deny them.

44.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 44, and on that basis deny them.

45.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 45, and on that basis deny them.

46.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 46, and on that basis deny them.

47.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 47, and on that basis deny them.

48.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 48, and on that basis deny them.

49.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 49, and on that basis deny them.

50.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 50, and on that basis deny them.

51.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 51, and on that basis deny them.

52.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 52, and on that basis deny them.

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53.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 53, and on that basis deny them.

54.

FIRST CLAIM FOR RELIEF
(ORS 659A.199 – Retaliation Against Whistleblower)
Against UCFD1

In response to Paragraph 54, Defendants reallege and incorporate their previous responses to Paragraphs 1-53.

55.

Paragraphs 55-62 are not directed at Defendants, so no response is necessary. To the extent a response is necessary, Defendants deny the allegations in Paragraphs 55-62.

63.

SECOND CLAIM FOR RELIEF
(31 U.S.C.A. § 3730 – Retaliation Against Whistleblower)
Against UCFD1

In response to Paragraph 63, Defendants reallege and incorporate their previous responses to Paragraphs 1-62.

64.

Paragraphs 63-71 are not directed at Defendants, so no response is necessary. To the extent a response is necessary, Defendants deny the allegations in Paragraphs 63-71.

72.

THIRD CLAIM FOR RELIEF
(Negligent Investigation)
Against UCFD1 and FERRARIS

In response to Paragraph 72, Defendants reallege and incorporate their previous responses to Paragraphs 1-71.

73.

Defendants deny Paragraphs 73-84.

85.

In response to Paragraph 85, Defendants admit that UCFD1 assigned Defendants the investigation. Defendants lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 82, and on that basis deny them.

86.

Defendants deny Paragraph 86.

87.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 87, and on that basis deny them.

88.

Defendants deny Paragraphs 88-93.

94.

FOURTH CLAIM FOR RELIEF
Interference with Economic Opportunity
Against FERRARIS

In response to Paragraph 94, Defendants reallege and incorporate their previous responses to Paragraphs 1-93.

95.

In response to Paragraph 95, Defendants admit knowledge of the employment relationship between Plaintiff and UCFD1. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 95, and on that basis deny them.

96.

Defendants deny Paragraphs 96-99.

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100.

FIFTH CLAIM FOR RELIEF
Defamation Per Se

In response to Paragraph 100, Defendants reallege and incorporate their previous responses to Paragraphs 1-99.

101.

Defendants deny Paragraph 101-107.

108.

SIXTH CLAIM FOR RELIEF
(29 USC 1983 Due Process Property Right to Employment)
Against UCFD1

In response to Paragraph 108, Defendants reallege and incorporate their previous responses to Paragraphs 1-107.

109.

Paragraphs 108-116 are not directed at Defendants, so no response is necessary. To the extent a response is necessary, Defendants deny the allegations in Paragraphs 108-116.

117.

SEVENTH CLAIM FOR RELIEF
(29 USC 1983 Due Process Liberty Right to Reputation)
Against UCFD1

In response to Paragraph 117, Defendants reallege and incorporate their previous responses to Paragraphs 1-116.

118.

Paragraphs 118-121 are not directed at Defendants, so no response is necessary. To the extent a response is necessary, Defendants deny the allegations in Paragraphs 118-121.

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122.

EIGHTH CLAIM FOR RELIEF
Negligent Retention and Supervision
Against UCFD1

In response to Paragraph 122, Defendants reallege and incorporate their previous responses to Paragraphs 1-121.

123.

Paragraphs 122-127 are not directed at Defendants, so no response is necessary. To the extent a response is necessary, Defendants deny the allegations in Paragraphs 122-127.

128.

NINTH CLAIM FOR RELIEF
Aiding and Abetting ORS 659A.030(1)(g)

In response to Paragraph 128, Defendants reallege and incorporate their previous responses to Paragraphs 1-127.

129.

Defendants admit that Paragraph 129 contains correct excerpts from ORS 659A.030(1)(g).

130.

In response to Paragraph 130, Defendants admit that they are persons covered by ORS 659A.030.

131.

Defendants deny Paragraphs 131-136.

137.

TENTH CLAIM FOR RELIEF
Detrimental Reliance
Against UCFD1

In response to Paragraph 137, Defendants reallege and incorporate their previous responses to Paragraphs 1-136.

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138.

Paragraphs 138-144 are not directed at Defendants, so no response is necessary. To the extent a response is necessary, Defendants deny the allegations in Paragraphs 138-144.

145.

Except as expressly admitted above, Defendants deny all factual allegations contained in Plaintiff's Second Amended Complaint

146.

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

Plaintiff will be unable to present admissible evidence that would allow a reasonable juror to find that Defendants were liable for some or all of the claims asserted in Plaintiffs' Second Amended Complaint.

147.

SECOND AFFIRMATIVE DEFENSE

(Failure to Mitigate)

Plaintiff failed to mitigate the damages alleged in their Second Amended Complaint.

148.

THIRD AFFIRMATIVE DEFENSE

(Statute of Limitations)

Some or all of Plaintiff's claims are barred by the appropriate statute of limitations.

149.

FOURTH AFFIRMATIVE DEFENSE

(Legitimate, Non-Discriminatory Reasons)

Any action taken by Defendants regarding Plaintiff was taken for legitimate, non-discriminatory, and non-retaliatory reasons.

150.

FIFTH AFFIRMATIVE DEFENSE

(Compliance with Applicable Law)

Plaintiffs' claims are barred, in whole or in part, because District acted in compliance with all laws, governing regulations, and industry standards in effect at all relevant times.

151.

SIXTH AFFIRMATIVE DEFENSE

(Failure to Exhaust Administrative Remedies)

Plaintiffs have failed to exhaust relevant administrative remedies and are therefore barred from recovery.

152.

SEVENTH AFFIRMATIVE DEFENSE

(Truth)

Defendants' statements about Plaintiff are true.

153.

EIGHTH AFFIRMATIVE DEFENSE

(Qualified Privilege)

Defamatory statements made by Defendants, if any, are subject to a qualified privilege due to those statements being made in good faith and as part of Defendants conducting their investigative reporting responsibilities, protecting Defendants' interest, protecting UCFD1's interests and/or addressed a subject of mutual concern.

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154.

NINTH AFFIRMATIVE DEFENSE

(Punitive Damages are not a Remedy for Defamation)

Punitive damage awards based on defamation are prohibited according to the Oregon Constitution. *Wheeler v. Green*, 286 Or 99, 199 (1979).

155.

TENTH AFFIRMATIVE DEFENSE

(Consent)

Plaintiff consented to Defendants' communication about the Plaintiff to others.

156.

ELEVENTH AFFIRMATIVE DEFENSE

(Economic Loss Doctrine)

Plaintiff's negligence claim(s) are barred because Plaintiff did not suffer any physical impact or property damage.

157.

TWELFTH AFFIRMATIVE DEFENSE

(Intentional Interference with Economic Relations Privileged or Justified)

Defendants were privileged or justified as it was of an equal or superior social value and Defendant was acting as an agent for the benefit of their principal. *Welch v. Bancorp Management Advisors, Inc.*, 296 Or 208, 218 (1983).

158.

RESERVATION TO ADD ADDITIONAL AFFIRMATIVE DEFENSES

Defendants continue to investigate the allegations raised in the plaintiff's Amended Complaint. Defendants reserve their right to add additional affirmative defenses as discovery proceeds.

JURY DEMAND

Defendants demand that all issues be tried to a jury of twelve.

PRAYER

WHEREFORE, Defendants pray as follows:

- a. That all of the plaintiff's claims against it be dismissed, with prejudice;
- b. That judgment be entered in favor of Defendants and that Plaintiff recover nothing by way of their Complaint;
- c. That Defendants be awarded its costs; and
- d. For such other relief as the court deems proper.

DATED November 6, 2024.

GARRETT HEMANN ROBERTSON P.C.



Elliot R. Field, (OSB No. 175993)

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Of Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served the foregoing **DEFENDANTS JAMES C. FERRARIS, FERRARIS INVESTIGATIONS & CONSULTING, LLC'S ANSWER AND AFFIRMATIVE DEFENSES TO SECOND AMENDED COMPLAINT** on the date indicated below,

- ☒ Via First-Class Mail with postage prepaid
- ☐ Via Facsimile Transmission
- ☒ Via Electronic Filing Notice
- ☒ Via Email
- ☐ Via Hand Delivery
- ☐ Via Overnight Delivery

to the following person(s) a true copy thereof, contained in a sealed envelope (if other than by facsimile transmission), addressed to said person(s) at their last known addresses indicated below:

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DATED November 6, 2024.

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4879-5974-7314, v. 1